IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5266 OF 2005

Mallesha @ Malleshi Kashiram
Kasture ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.A.P.Mundargi with Mr.Ujwal R.Agandsurve for the Applicant
Mr.K.V.Saste,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 22,2005

P.C.:

1. Heard learned Counsel for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicant is under section 302 read with section 34 of the Indian Penal Code. The statement of the widow of the deceased recorded on 4th May 2005 does not implicate anyone. All that the widow of the deceased has stated is that on 1st May 2005 the deceased did not come back to his house and while she was searching for the deceased, she saw the deceased lying on the road. She stated that the deceased informed her that he was suffering from abdominal pain. It is stated in the said statement that the deceased was taken by her to the dispensary of one Dr.Shastri who administered injection to the deceased and some tablets were given. The deceased expired on 4th May 2005 at 7.30 a.m. and thereafter another statement has been recorded.

2. In her statement recorded on 5th May 2005 she has stated that on 1st May 2005, when she found the deceased lying on the road, the deceased disclosed names of two other accused Shivanand and Laxman with whom he had a quarrel and thereafter the said two persons assaulted the deceased on his abdomen by fist blows. The said statement of the widow of the deceased discloses that it is the Applicant who is the owner of the field on which the deceased was working. She had taken the the deceased to the dispensary of Dr.Shaikh at Nimbargi District Solapur. All that is stated against the Applicant is that after the deceased was treated, he told the widow of the deceased to go back to her residence and not to tell the incident to any one. The other allegation is that immediately after the death of the deceased, the Applicant brought the necessary articles for performing funeral of the deceased. A vague allegation made by the widow of the deceased is that the Applicant with the help of said Shivanand and Laxman assaulted the deceased.

3. In the statements of the Dr.Shaikh and Dr.Shastri who have allegedly treated the deceased immediately after the assault, They have not stated that the deceased gave history of any assault and all that the said Doctors have stated is that the deceased disclosed that he is suffering from pain in abdomen.

4. Investigation has been completed and charge sheet has been

filed. Considering two different statements of the widow of the deceased and the statements of the Medical Practitioners, at this stage there appears to be substance in the contention of the Applicant that the prosecution case against the Applicant is doubtful. Hence the Applicant is entitled to be enlarged on bail.

5. Hence, I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.22/2005 registered with Mandrup Police Station, Solapur subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant will attend the concerned Police Station once in a week till conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the

Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

Judge